

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

December 15, 2008

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Raye, Associate Justice; Cantil-Sakauye, Associate Justice; and Horner, bailiff.

C058222 BLEDSOE et al. v. BIGGS UNIFIED SCHOOL DISTRICT

Cause called. Lesley Beth Curtis argued for appellant. Christian M. Keiner argued for and Emily E. LaMoe appeared only respondent. Cause submitted.

At 10:12 a.m., the court recessed. At 10:17 a.m., the court reconvened with Nicholson, Associate Justice; Robie, Associate Justice; and Cantil-Sakauye, Associate Justice.

C056267 SIXELLS, LLC v. CANNERY BUSINESS PARK et al.

Cause called. David J. Lonich argued for appellant. Arthur B. Mark, III argued for respondent Tsakopoulos et al. Kevin R. Brodehl argued for respondents Cannery Business Park et al.. Cause submitted.

At 10:40 a.m., the court recessed. At 10:40 a.m., the court reconvened.

C055700 CALIFORNIA SCHOOL BOARDS ASSOCIATION et al. v. STATE OF CALIFORNIA et al.; DEPARTMENT OF FINANCE AMENDED

Cause called. Ross C. Moody, Deputy Attorney General, argued for appellant and cross-appellant. Camille S. Shelton argued for cross-respondents State of California et al.. Deborah Caplan argued for and N. Eugene Hill appeared only for intervener, appellant and cross-respondent Department of Finance . Cause submitted.

At 11:13 a.m., the court recessed. At 11:16 a.m., the court reconvened with Nicholson, Associate Justice; Robie, Associate Justice; and Cantil-Sakauye, Associate Justice.

C054251 MOOSA v. TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY et al.

Cause called. Kimball J.P. Sargeant argued for appellant. J. Scott Smith argued for and Carolee G. Kilduff appeared only for respondent. Cause submitted.

At 12:00 p.m., the court recessed. At 2:03 p.m., the court reconvened with Nicholson, Associate Justice; Robie, Associate Justice; and Butz, Associate Justice.

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The judgment is affirmed.
ROBIE, J.
We Concur: Nicholson, Acting P.J.
Morrison, J.

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December 15, 2008, Continued

- C057867 THE PEOPLE v. (Not For Publication)**
FREDERICK ANGELO THOMPSON, JR.
The judgment is affirmed.
ROBIE, J.
We Concur: Scotland, P.J.
Butz, J.
- C058028 THE PEOPLE v. (Not For Publication)**
RAMON SOLORIO RODRIGUEZ
The judgment is affirmed.
SCOTLAND, P.J.
We Concur: Raye, J.
Robie, J.
- C056914 In re AMY T. et al.; SISKIYOU COUNTY (Not For Publication)**
HUMAN SERVICES DEPARTMENT v.
MARILYN T.
The orders of the juvenile court are affirmed.
CANTIL-SAKAUYE, J.
We Concur: Scotland, P.J.
Nicholson, J.
- C058400 In re D.M.; SACRAMENTO COUNTY (Not For Publication)**
DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. M.M.
The orders of the juvenile court are affirmed.
DAVIS, J.
We Concur: Blease, Acting P.J.
Raye, J.
- C058425 In re O.H. et al.; SACRAMENTO COUNTY (Not For Publication)**
DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. M.F.
The orders denying the request for an evidentiary hearing on the petitions
for modification, denying the petitions, and terminating the parental rights of
mother are affirmed.
BUTZ, J.
We Concur: Scotland, P.J.
Hull, J.

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December 15, 2008, Continued

C057930 PADILLA v. MILLMAN
BY THE COURT:

On September 29, 2008, this court granted a motion to strike appellant's opening brief and afforded appellant another opportunity to file an opening brief. Appellant was advised that failure to file an opening brief that complied with the California Rules of Court would result in dismissal of the appeal. On October 28, 2008, appellant filed another opening brief that failed to comply with the rules. On November 25, 2008, respondent filed a motion to strike the brief that included a request for dismissal of the appeal. Appellant failed to file opposition to the motion. The appeal is dismissed. The motion to strike is denied as moot.

SCOTLAND, P.J.

C058527 AMES v. DR. HAWLEY et al.
BY THE COURT:

Appellant's "Motion for Reconsideration" is denied.

SCOTLAND, P.J.

December 16, 2008

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Davis, Associate Justice; Cantil-Sakauye, Associate Justice; and Haskett, bailiff.

C055368 THE PEOPLE v. MICHAEL JAMES TECKLENBURG

Cause called. Myron Moskowitz argued for appellant. Janet L. Smith, Deputy District Attorney, argued for and Ronald J. Freitas appeared only for respondent. Cause submitted.

At 10:12 a.m., the court recessed. At 10:17 a.m., the court reconvened with Davis, Associate Justice; Hull, Associate Justice; and Cantil-Sakauye, Associate Justice.

C058849 THOMAS v. SHEWRY, as Director, etc.

Cause called. Patric Hooper argued for appellant. G. Mateo Munoz argued for respondent. Cause submitted.

At 10:48 a.m., the court recessed. At 10:50 a.m., the court reconvened with Davis, Associate Justice; Morrison, Associate Justice; and Cantil-Sakauye, Associate Justice.

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December 16, 2008, Continued

C057083 CALIFORNIA NATIVE PLANT SOCIETY et al. v. COUNTY OF EL DORADO et al.; CAMERON PARK VENTURES et al.

Cause called. Michael W. Graf argued for appellant. Michael V. Brady argued for respondent County of El Dorado et al.. Andrea K. Leisy argued respondent Cameron Park Ventures et al.. Cause submitted.

At 11:26 a.m., the court recessed. At 2:02 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Butz, Associate Justice.

C056194 THE JUDGE ROTENBURG EDUCATIONAL CENTER INC. v. OFFICE OF ADMINISTRATIVE HEARINGS; CALIFORNIA DEPARTMENT OF EDUCATION

Cause called. Thadd A. Blizzard argued for appellant. Peter J. Stubbs, Deputy General Counsel, argued for respondent. Cause submitted.

At 2:29 p.m., the court recessed. At 2:33 p.m., the court reconvened with Hull, Associate Justice; Robie, Associate Justice; and Butz, Associate Justice.

C055801 THE PEOPLE v. JOHN F. ROSCOE et al.

Cause called. Brett H. Oberst argued for appellant. William S. Bernheim argued for respondents. Albert C. Locher argued for respondents. Cause submitted.

At 3:07 p.m., the court recessed until Friday, December 19, 2008.

C056353 THE PEOPLE v. MICHAEL KEYES (Not For Publication)

The judgment (order of probation) is modified to award defendant 38 days of conduct credit. The trial court shall prepare a modified order of probation in accordance with this directive. As modified, the judgment is affirmed.

SIMS, Acting P.J.

We Concur: Davis, J.
Robie, J.

C057222 THE PEOPLE v. ANTHONY BRUCE WILLIAMS (Not For Publication)

The judgment is affirmed.

SIMS, J.

We Concur: Scotland, P.J.
Butz, J.

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C058624 THE PEOPLE v. SEAN BATISTE WESLEY (Not For Publication)

The judgment is modified to impose a \$20 court security fee and to award defendant 243 days of custody credit. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections and Rehabilitation.

BUTZ, J.

We Concur: Scotland, P.J.

Hull, J.

**C056780 In re NOELLE M.; THE PEOPLE v. (Certified For Partial Publication)
NOELLE M.**

The juvenile court is directed to correct its records to show that the minor's maximum period of confinement is 12 years 4 months and that she is entitled to 297 days of precommitment custody. In all other respects, the order committing the minor to the DJJ is affirmed.

MORRISON, J.

We Concur: Sims, Acting P.J.

Raye, J.

December 17, 2008

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Blease, Associate Justice; Davis, Associate Justice; and Harper, bailiff.

C055680 THE PEOPLE v. SALVATORE CARMELO MAGGIO

Cause called. Charles M. Bonneau argued for appellant. Craig S. Meyers, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:56 a.m., the court recessed. At 10:00 a.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Robie, Associate Justice.

C056709 THE PEOPLE v. SUSAN RENEE LESNIEWSKI

Cause called. Erin Radekin argued for appellant. Jamie A. Scheidegger, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:23 a.m., the court recessed. At 10:27 a.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Cantil-Sakauye, Associate Justice.

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C057896 MILLER et al. BANK OF AMERICA

Cause called. Ed Dudensing argued for appellant. Laurence J. Hutt argued for respondent. Cause submitted.

At 11:08 a.m., the court recessed until Friday, December 19, 2008.

C051856 THE PEOPLE v. RICKY CARTER (Not For Publication)

The judgment is affirmed.
NICHOLSON, Acting P.J.

I Concur: Cantil-Sakauye, J.

I respectfully dissent: ...
Morrison, J.

C056586 THE PEOPLE v. ANAMARIE VALENCIA (Not For Publication)

The judgment is affirmed.
NICHOLSON, Acting P.J.

We Concur: Robie, J.
Cantil-Sakauye, J.

**C056874 THE PEOPLE v. (Not For Publication)
RICHARD LEE EGGMAN**

The clerk of the superior court is directed to correct the abstract of judgment to reflect that defendant's conviction on count seven was a misdemeanor, and to forward a certified copy of the corrected abstract of judgment to the Department of Corrections and Rehabilitation. The judgment is otherwise affirmed as modified.

SIMS, Acting P.J.

We Concur: Davis, J.
Hull, J.

**C057237 THE PEOPLE v. (Not For Publication)
DUSTIN DOUGLAS EATTOCK**

The trial court is directed to amend the abstract of judgment... As amended, the judgment is affirmed.

The trial court is directed to send a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.

SIMS, Acting P.J.

We Concur: Davis, J.
Hull, J.

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- C057613 THE PEOPLE v. (Not For Publication)**
ALLONA MARIE GALE O'CONNELL
The judgment is affirmed.
SIMS, Acting P.J.
We Concur: Davis, J.
Hull, J.
- C057881 THE PEOPLE v. (Not For Publication)**
GILBERT CLYDE METZ, JR.
The judgment is modified by striking the fines imposed under Penal Code section 1465.7, subdivision (a) (\$40) and Government Code sections 70372, subdivision (a) (\$100) and 76104.6 (\$20). As modified, the judgment is affirmed. The trial court is directed to correct the amended abstract of judgment accordingly and to send a certified copy of the second amended abstract to the Department of Corrections and Rehabilitation.
BUTZ, J.
We Concur: Scotland, P.J.
Hull, J.
- C057704 In re C.L. et al.; BUTTE COUNTY (Not For Publication)**
DEPARTMENT OF EMPLOYMENT
AND SOCIAL SERVICES v. N.L.
The orders of the juvenile court are affirmed.
NICHOLSON, J.
We Concur: Davis, Acting P.J.
Hull, J.
- C058804 In re K.S. et al.; SACRAMENTO COUNTY (Not For Publication)**
DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. K.S., SR.
The orders of the juvenile court denying appellant's petitions for modification and terminating his parental rights are affirmed.
BLEASE, Acting P.J.
We Concur: Davis, J.
Nicholson, J.
- C060199 C.G. v. SUPERIOR COURT OF SAN (Not For Publication)**
JOAQUIN COUNTY; SAN JOAQUIN
COUNTY HUMAN SERVICES AGENCY
The writ petition is denied.
BLEASE, Acting P.J.
We Concur: Sims, J.
Cantil-Sakauye, J.

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At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Sims, Associate Justice; Davis, Associate Justice; and Haskett, bailiff.

C056595 THE PEOPLE v. MICHAEL ANTONIO PLACENCIA

Cause called. William A. Malloy, court appointed counsel, argued for appellant. David A. Rhodes, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:53 a.m., the court recessed. At 9:58 a.m., the court reconvened with Sims, Associate Justice; Morrison, Associate Justice; and Hull, Associate Justice.

**C054983 SUTTER HEALTH UNINSURED PRICING CASES; STOWERS et al. v.
SUTTER HEALTH et al.**

Cause called. Emry J. Allen argued and Julius J. Cherry and Gerald B. Glazer appeared only for appellants. Kelly M. Dermody argued for respondents Pollack et al.. Jeffrey A. LeVee argued for respondents Sutter Health et al.. Cause submitted.

At 10:23 a.m., the court recessed until Monday, December 22, 2008.

C058717 THE PEOPLE v. TENG YANG (Not For Publication)

The judgment is affirmed.

RAYE, J.

We Concur: Scotland, P.J.

Robie, J.

C055652 LOELIGER v. ALILIRE (Not For Publication)

The judgment (order) is affirmed. Mother shall recover costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1).)

CANTIL-SAKAUYE, J.

We Concur: Scotland, P.J.

Davis, J.

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**C056077 SACRAMENTO HOUSING & (Not For Publication)
REDEVELOPMENT AGENCY v.
SMALL BUSINESS CHAMBER OF
COMMERCE, INC. et al.**

The judgment of dismissal is reversed as to the first, second, third, fourth and fifth causes of action and affirmed as to the sixth cause of action. The matter is remanded to the trial court with directions to grant SHRA leave to amend its complaint. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (5).)

BLEASE, Acting P.J.

We Concur: Nicholson, J.

Cantil-Sakauye, J.

**C058060 In re A.V.; SACRAMENTO COUNTY (Not For Publication)
DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. E.S.**

The order terminating parental rights is vacated, and the matter is remanded to the juvenile court with directions to order DHHS to provide proper ICWA notice to the BIA, including all presently known relevant information concerning the maternal great-grandfather, Aaron V., and the maternal great-grandmother, Betty A., along with any other relevant information known to DHHS, and to comply with all statutory requirements regarding filing of notices and return receipts with the juvenile court. If, after proper and complete notice, the BIA determines that the minor is an Indian child as defined by ICWA, the juvenile court is ordered to conduct a new section 366.26 hearing in conformity with all provisions of ICWA. If, on the other hand, no response is received or the BIA determines the minor is not an Indian child, all previous findings and orders shall be reinstated.

DAVIS, J.

We Concur: Sims, Acting P.J.

Nicholson, J.

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**C056200 WALLIS v. PHL ASSOCIATES, (Certified For Publication)
INC. et al.**

**PHL ASSOCIATES,INC. et al. v. WALLIS
et al.; MENDOZA**

BY THE COURT:

It is ordered that the opinion filed herein on November 25, 2008, be modified as follows:

Delete footnote two on page four.

This modification does not change the judgment.

The petition for rehearing is denied.

BY THE COURT:

SCOTLAND, P.J.

Nicholson, J.

Hull, J.